

November 29, 2018

VIA ECF

Hon. LaShann DeArcy Hall
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Fernandez, et al. v. Kinray, Inc., et al.*
Civil Action No.: 13-CV-4938

Dear Judge DeArcy Hall:

We write jointly on behalf of all parties to report that the parties have conferred and reached agreement as to the end date for Plaintiffs' claims in this action (Dkts. 386, 389), and to respectfully request that the Court approve the terms of the parties' agreement, set forth below. The parties have also conferred regarding the issues raised in Defendants' November 14, 2018 pre-motion letter and Plaintiff's November 19, 2018 response (Dkt. 388), and have agreed that Plaintiffs shall advise Defendants by December 14, 2018 whether they object to dismissal of the seven Plaintiffs who have filed for bankruptcy during the pendency of this litigation.

- The end date for Plaintiffs' claims shall be the earlier of September 30, 2015¹ or:
 - For Routeholders, the last date a Routeholder Plaintiff (or his or her corporation) received payment from Defendants for delivery services;
 - For Helpers, the last date a Helper Plaintiff provided services to a Routeholder;
- On or before December 5, 2018, Plaintiffs shall file a Third Amended Complaint ("TAC") that is consistent with the Second Amended Complaint (Dkt. 379) except as specifically set forth below:
 - For each named Plaintiff, the TAC shall allege that such Plaintiff provided services to Defendants "in one or more weeks between _____² and September 30, 2015";

¹ Defendants terminated the final series of contracts with Routeholders on or around August 15, 2015; thus, all directly contracted services ceased on or about September 15, 2015.

² Plaintiffs to insert the alleged date provision of such services commenced as to each Plaintiff.

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- The TAC shall replace Plaintiffs Gamarra and Casasolas, whose claims are subject to their bankruptcy filings, with newly identified trial Bellwether Plaintiffs: William R. Sanchinelli and Marjorie Gutierrez.
- Defendants shall file their Answer to the TAC on or before December 19, 2018;
- Plaintiffs Sanchinelli and Gutierrez shall appear for deposition on or before December 21, 2018;
- The parties shall jointly submit a letter to the Court designating their respective Routeholder trial Plaintiffs by December 28, 2018;
- The parties shall jointly submit a letter to the Court designating their respective Helper trial Plaintiffs by January 18, 2018.
- The briefing schedule and status conference set at last week's court conference are stricken as moot.

We ask that the Court "so order" this letter, and a so ordered block is below for the Court's convenience. The parties are available to address any concerns the Court may have.

Respectfully submitted,

JOSEPH & KIRSCHENBAUM LLP

JACKSON LEWIS P.C.

By: S/
D. Maimon Kirschenbaum
Josef Nussbaum
Lucas Buzzard
32 Broadway, Ste. 601
New York, New York 10004
(212) 688-5640

By: S/
Felice B. Ekelman
Noel P. Tripp
Lauren B. Grassotti
666 Third Avenue, 29th Floor
New York, New York 10017
(212) 545-4000

SO ORDERED on this _____ day of _____, 2018

United States District Judge